REMARKS

Claims 1-22 are pending. Claims 1-5 and 8-22 are allowed, claim 7 is objected to, and claim 6 is rejected.

The indication of allowable subject matter with respect to claims 1-5 and 7-22 is appreciated.

Claim 6 was rejected under 35 U.S.C. §103(a), as rendered obvious and unpatentable, over Mullor et al. (US 6,411,941). The Applicant respectfully traverses this rejection for the following reason(s).

THE PREAMBLE GIVES MEANING TO THE CLAIM

It has long been an accepted practice in the PTO to have the preamble give meaning to the claim and properly define the invention, *Gerber Garment Technology, Inc. v. Lectra Systems, Inc.*, 916 F.2d 683, 16 USPQ 2d 1436, 1441 (Fed. Cir. 1990).

In claim 6 the preamble defines *an auxiliary memory* as a memory *for storing BIOS setup information used by a BIOS program stored in the BIOS ROM.*

It is well known in the computer art that a computer comprises a number of memories. So, to the present invention/claim point's out in which memory it is desired to write the manually input product key information. See the feature *writing the manually input product key information into the auxiliary memory.*

As noted by the Examiner, Mullor teaches storing the encrypting license information in a second erasable, writable, non-volatile memory area of the BIOS of the computer. As is well known

in the art "BIOS" generally refers to a BIOS ROM. And according to Mullor the second erasable, writable, non-volatile memory area is the E^2 PROM of the BIOS.

Mullor discloses "For a better understanding of the underlying concept of the invention, there follows a specific non-limiting example. Thus, consider a conventional computer having a conventional BIOS module in which a key was embedded at the ROM section thereof, during manufacture. The key constitutes, effectively, a unique identification code for the host computer. It is important to note that the key is stored in a non-volatile portion of the BIOS, i.e. it cannot be removed or modified.

Further, according to the invention, each application program that is to be licensed to run on the specified computer, is associated with a license record; that consists of author name, program name and number of licensed users (for network). The license record may be held in either encrypted or explicit form.

Now, there commences an initial license establishment procedure, where a verification structure is set in the BIOS so as to indicate that the specified program is licensed to run on the specified computer. This is implemented by encrypting the license record (or portion thereof) using said key (or portion thereof) exclusively or in conjunction with other identification information) as an encryption key. The resulting encrypted license record is stored in another (second) non-volatile section of the BIOS, e.g. E^2 PROM (or the ROM). It should be noted that unlike the first non-volatile section, the data in the second non-volatile memory may optionally be erased or modified (using E^2 PROM manipulation commands), so as to enable to add, modify or remove licenses. The actual format of the license may include a string of terms that correspond to a license registration entry (e.g.

lookup table entry or entries) at a license registration bureau (which will be further described as part of the preferred embodiment of the present invention).

Having placed the encrypted license record in the second non-volatile memory (e.g. the E^2 PROM), the process of verifying a license may be o commenced. Thus, when a program is loaded into the memory of the computer, a so called license verifier application, that is a priori running in the computer, accesses the program under question, retrieves therefrom the license record, encrypts the record utilizing the specified unique key (as retrieved from the ROM section of the BIOS) and compares the so encrypted record to the encrypted records that reside in the E^2 PROM. In the case of match, the program is verified to run on the computer. If on the other hand the sought encrypted data record is not found in the E^2 PROM database, this means that the program under question is not properly licensed and appropriate application define action is invoked (e.g. informing to the user on the unlicensed status, halting the operation of the program under question etc.)"

Mullor also discloses "According to one, non-limiting, preferred embodiment of the present invention, the first non-volatile memory area is a ROM section of a BIOS; the second non-volatile memory area is a E^2 PROM section of a BIOS; and the volatile memory is a RAM e.g. hard disk and/or internal memory of the computer."

Therefore, Mullor fails to disclose or teach *an auxiliary memory for storing BIOS setup information used by a BIOS program stored in the BIOS ROM* and *writing the manually input product key information into the auxiliary memory.*

Accordingly, the rejection of claim 6 is deemed to be in error and should be withdrawn.

DESTROYING THE INTENT OF MULLOR'S INVENTION

As noted by the Examiner, Mullor fails to teach or disclose *making a user manually input the product key information corresponding to a procedure of installing the operating system program.*

Here the Examiner erroneously takes Official Notice that the foregoing feature would have been obvious because "this would reduce the processing cycles required to generate the key, as well as allow any key to be entered, rather than being restricted to what is generated by the encrypting process.

Such a modification would destroy the intended purpose of Mullor's device such that it would no longer be able to function as intended, and such destruction is an important indication of non-obviousness, see *In re Gordon,* 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Mullor discloses that "program Software based products have been developed to validate authorized software usage by writing a license signature onto the computer's volatile memory (e.g. hard disk). These products may be appropriate for restricting honest software users, **but they are very vulnerable to attack at the hands of skilled system's programmers** (e.g. "hackers")." Emphasis added.

Accordingly, allowing a user to to manually input product key information as suggested by the Examiner would allow a hacker to opportunity to enter data that would allow for the unauthorized use of the software, contrary to the intent of Muller of desiring to prevent a hacker from using unlicensed software.

Mullor discloses:

> According to the preferred embodiment of the present invention, there is further

provided a license authentication bureau which can participate in either or both of:

(i) establishing the license record in the second non-volatile memory; and

(ii) verifying if the key and license record in the non-volatile memory(s) is compatible with the license record information as extracted from the application under question.

By letting a user enter license record information (i.e., "allow any key to be entered" as the Examiner stated), instead of using the license record information as extracted from the application, a hacker can gain access to the application.

Accordingly, the rejection of claim 6 is deemed to be in error and should be withdrawn.

UNTENABLE BASIS OF OBVIOUSNESS

The Examiner stated "Official Notice is taken, however, that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a user manually input product key information, as **this would reduce processing cycles required to generate the key** . . ."

The Examiner has not given a reason why one of ordinary skill in the art would want to reduce processing cycles required to generate the key. Note that, besides destroying the intent of Mullor's invention as discussed above, have a user manually input product key information would require that the user be prompted to make such an input. This would require a program to generate a user input window and to take that information that was input and put it to use.

Accordingly, more processing cycles would have been the result. Additionally, the verification process would take longer since it takes time for a user to input such data as a product

key, even without mistakes. Whereas it only takes milliseconds or microseconds for a computer program to extract that data from a software application.

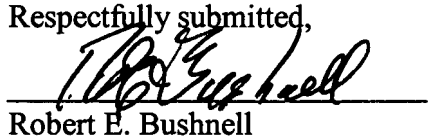
One of ordinary skill in the art would have chosen the faster process, which is not the process of manually inputting data.

Accordingly, the rejection of claim 6 is deemed to be in error and should be withdrawn.

The examiner is respectfully requested to reconsider the application, withdraw the objections and/or rejections and pass the application to issue in view of the above amendments and/or remarks.

A Petition for a one month extension of time and an Applicant's check in the amount of $120.00 drawn to the order of Commissioner accompanies this response. Should the Petition become lost, the Commissioner is requested to treat this paragraph as a Petition for an extension of time, and should the check become lost, be deficient in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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